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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,214	06/21/2001	Frank Melzer	LO25-003	8415
21567	7590	06/02/2005		EXAMINER
WELLS ST. JOHN P.S. 601 W. FIRST AVENUE, SUITE 1300 SPOKANE, WA 99201				SHAFER, RICKY D
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/888,214	MELZER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ricky D. Shafer	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 March 2005.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.  
 4a) Of the above claim(s) 5-21, 26 and 27 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4, 22 and 28-30 is/are rejected.  
 7) Claim(s) 23-25 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 02 March 2005 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/02/2005</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

1. Applicant's arguments filed March 02, 2005 have been fully considered but they are not persuasive for the reasons stated below.

Marmo et al discloses a method of joining together a multiplicity of optical elements on a basic body comprising positioning a plurality of individual optical elements/segments (24) on a basic body (28), see column 6, lines 57 to 60 which states that the elements/segments "permit nearly continuous contact", wherein the plurality of the individual optical elements are connected together to the basic body by a galvanoplastic technique of applying a layer (34) to the individual optical elements (see Fig. 10), wherein the application of said layer (34) forms a single monolithic structure by connecting the plurality of the individual optical elements/segments together to form a seamless continuous faceplate (see column 1, lines 55 to 58), wherein the galvanically formed seamless continuous faceplate is further processed (see figures 11-25) to obtain a plurality of mirror facets (see Fig. 26).

Accordingly, the rejections as set forth in the previous office action are repeated and maintained.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Marmo et al ('276).

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Marmo et al discloses a method of joining together a multiplicity of optical elements on a basic body comprising positioning a plurality of individual optical mirror elements (24) on a basic body (28); and connecting the plurality of the individual optical elements to the basic body by a galvanoplastic joining technique. Note figures 7 to 26 along with the associated description thereof.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 22 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marmo et al ('276) in view of Sweatt et al ('577).

Marmo et al discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the mirror facets are used for beam mixing and field imaging for an EUV lighting system, wherein said EUV system includes a light source for directing the light onto the mirror facets and to a reticle.

Sweatt et al teaches it is known to use mirror facets in a EUV lighting system, wherein said EUV system includes a source (22) for directing light onto the mirror facets (30) and to a reticle (70) in the same field of endeavor for the purpose of beam mixing and field imaging.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the mirror facets of Marmo et al are obviously capable of being used in an typical EUV lighting system, as taught by Sweatt et al, in order to receive light from a source and direct said light to a reticle so as to provide for beam mixing and field imaging.

As to the limitations of claim 22, barring a showing of criticality or unexpected results, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the size (number) of optical elements of Marmo et al to include a size (number) within the range recited by applicant in order to obtain a desirable diameter of interest due to the fact that such a modification would have involved a mere change in size (number) of components and a change in size is generally recognized as being within the level of one of ordinary skill in the art. Note *In re Rose*, 105 USPQ 237 (CCPA 1955).

6. Claims 23-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The amendment filed 23 February 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

A). On Page 4 of the specification, the addition of a description of Fig. 2b in the Brief Description Of The Drawings contains new matter due the fact that Fig. 2b includes intermediate layer (10) between adjacent mirror elements (9).

B). On page 5 of the specification, the addition of --and 2b-- is considered new matter for the same reasons stated above.

C). On page 6 of the specification, the addition of the language "Figure 2b...process." is considered new matter for the same reasons stated above.

Applicant is required to cancel the new matter in the reply to this Office Action.

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8. The drawings are objected to because Fig. 2b includes an intermediate layer (10) between adjacent mirror elements (9) which is considered to be new matter. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about

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the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDS

May 31, 2005

*Ricky D. Shaffer*  
RICKY D. SHAFFER  
PATENT EXAMINER  
ART UNIT 2872